

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

706B0548

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1142** - 2/11/98

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Gabriel, Duxbury, Jorgensen, and Pederson (Gordon) and
Senators Morford, Drake, and Johnson (William)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the regulation of
2 telecommunication companies and telecommunication services.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. It is the intent of the Legislature to encourage telecommunications companies to
5 more efficiently meet the infrastructure deployment goal described in §§ 49-31-60 to 49-31-68,
6 inclusive, for a fully integrated SONET backbone of interconnected survivable rings. To that end,
7 telecommunications companies may jointly provide facilities and enter into revenue-pooling
8 arrangements between and among themselves relating to the provisioning of these facilities. Any
9 such arrangement shall be subject to commission review and approval and, to the extent it has
10 received such approval, may not be construed as violating any state or local laws governing
11 unfair trade practices, antitrust or restraint of trade. Further, it is the intent of the Legislature that
12 any such approved arrangement shall be exempt from federal laws governing unfair trade
13 practices, antitrust, or restraint of trade. Except with respect to such joint provisioning of
14 facilities and revenue pooling arrangements approved by the commission, both state and federal

1 laws governing unfair trade practices, antitrust, and restraint of trade shall apply with full force
2 and effect. The joint provisioning of facilities within an arrangement consistent with the limited
3 purpose described in this section may not be construed as imposing additional common carrier
4 obligations on the participating companies. The provisions of this section may not be construed
5 to permit any telecommunications company to take any action that is contrary to the public
6 interest.

7 Section 2. It is in the public interest and essential that local exchange telecommunication
8 companies over all of South Dakota continue to be viable providers of affordable local exchange
9 services. Local exchange telecommunication companies receive substantial revenue necessary
10 to support the exchange from a minority of their customers. Local exchange telecommunication
11 companies must be allowed to compete to keep their profitable customers in order to maintain
12 the viability of local exchanges.

13 Notwithstanding any other provisions of chapter 49-31, except section 4 of this Act, any
14 telecommunication company may grant any discounts, incentives, services, or other business
15 practices necessary to meet competition. Nothing in chapter 49-31 restricts or prevents
16 telecommunication companies from offering reduced prices and special terms and conditions for
17 this state, its existing instrumentalities and subdivisions, for the United States and for K through
18 12 schools accredited by the secretary of the Department of Education and Cultural Affairs.

19 Section 3. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
20 follows:

21 Any regulation of telecommunications service by the commission pursuant to chapters 49-13
22 and 49-31 shall be fair, reasonable, nondiscriminatory and applicable to all telecommunications
23 carriers providing service in the state by rules adopted by the commission pursuant to chapter
24 1-26.

25 Section 4. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 Prices as of January 1, 1998, for residential and business local exchange service, both
3 recurring and nonrecurring, for a telecommunications company with more than two hundred
4 thousand retail access lines in the state may not be changed unless reduced by the company. The
5 provisions of § 49-31-4 and §§ 49-31-21 to 49-31-12.5, inclusive, do not apply to prices for
6 services regulated by this section.

7 Section 5. That chapter 49-31 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 Dialing parity, as defined in 47 U.S.C. § 153 (15) as of January 1, 1998, for purposes of
10 intraLATA long distance telecommunications services, may not be implemented by order of the
11 commission until all providers of toll services are authorized to provide interLATA services
12 which originate in this state.

1 **BILL HISTORY**

2 1/20/98 First read in House and referred to State Affairs. H.J. 124

3 1/30/98 Scheduled for Committee hearing on this date.

4 1/30/98 State Affairs Deferred to another day.

5 2/4/98 Scheduled for Committee hearing on this date.

6 2/4/98 State Affairs Deferred to another day.

7 2/9/98 Scheduled for Committee hearing on this date.

8 2/11/98 Scheduled for Committee hearing on this date.

9 2/11/98 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 5.